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P. ANDREW BLATT, Ph.D.  
DAVID E. JEFFERIES  
J. DWIGHT POFFENBERGER, JR.  
WILLIAM R. ALLEN, Ph.D.  
JOHN PAUL DAVIS  
BRETT A. SCHATZ  
SARAH OTTE GRABER

2700 CAREW TOWER  
441 VINE STREET  
CINCINNATI, OHIO 45202-2917  
TELEPHONE: 513-241-2324  
FACSIMILE: 513-241-6234

WEBSITE: www.whepatent.com

PATENT, TRADEMARK, COPYRIGHT  
AND UNFAIR COMPETITION LAW  
AND RELATED LITIGATION

EDMUND P. WOOD 1923-1968  
TRUMAN A. HERRON 1935-1978  
EDWARD B. EVANS 1936-1971

DAVID W. DORTON  
STEVEN W. BENINTENDI, Ph.D.  
RANDALL S. JACKSON, JR.  
ADAM R. WEEKS  
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RAMON A. URTEAGA  
CHASTITY D. S. WHITAKER, Ph.D.  
HARRY J. GUTTMAN, Ph.D.

OF COUNSEL  
JOHN D. POFFENBERGER  
DAVID J. JOSEPHIC  
DONALD F. FREI  
THOMAS W. FLYNN  
JOSEPH R. JORDAN  
C. RICHARD EBY

PATENT AGENT  
MICHAEL H. SCHENKER

January 26, 2009

## FACSIMILE COVER SHEET

<b>To:</b>	<b>Company:</b>	<b>Fax Number:</b>
Examiner Daniel Kesack	US Patent Office Group Unit No. 3691	571-273-8300
<b>Total Pages:</b>	24 (including cover sheet)	
<b>From:</b>	Thomas W. Humphrey	
<b>Re:</b>	i Attorney Docket: MPS-30DV3 US Application Serial No. 09/859,615 Filed May 16, 2001 System and Method For Paying Bills and Other Obligations Including Selective Payor and Payee Controls	

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PATENT  
ATTY. DOCKET NO. MPS-03DV3

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

**Ex parte**

**Appeal No. \_\_\_\_\_**

Serial No.: 09/859,615  
Filed: May 16, 2001  
Group Art Unit: 3691  
Examiner: Daniel Kesack  
Applicant: George W. Landry  
Title: System And Method For Paying Bills And Other Obligations  
Including Selective Payor And Payee Controls

Cincinnati, Ohio 45202

January 26, 2009  
*Via Facsimile*

**APPEAL BRIEF**

This brief is in furtherance of Applicant's Notice of Appeal filed August 26, 2008, appealing the decision of the Examiner dated February 26, 2008 finally rejecting claims 25-58. A copy of the claims appears in the Appendix to this brief.

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**Real Party In Interest**

The real party in interest in this appeal is MIDWEST PAYMENT SYSTEMS, an Ohio corporation of having a place of business at 38 Fountain Square Plaza, Cincinnati, Ohio 45263.

**Related Appeals and Interferences**

There are no such appeals or interferences.

**Status of Claims****Total Number of Claims in the Application**

Claims in the application are 25-58.

**Status of all the Claims**

1. Claims cancelled: 1-24
2. Claims withdrawn from consideration but not cancelled: NONE
3. Claims objected to: NONE
4. Claims allowed or confirmed: NONE
5. Claims rejected: 25-58

**Claims on Appeal**

The claims on appeal are Claims 25-58.

**Status of Amendments**

There are no amendments pending.

**Summary of Claimed Subject Matter as to Independent Claim 25**

Independent Claim 25 is described in the specification on page 38, lines 3-18 and Fig. 3, reference numbers 112, 120 and 150, and on page 49, line 11 through page 50, line 2, and Fig. 7 of the drawings.

As recited in claim 25, a bill paying system stores information for payees, and payors, including parameters established for enabling transfers of funds from a payee to a payor by a funds transfer generator. A communication device receives bill data from a plurality of payees and causes an interactive device to present the plurality of transactions representing bills of at least two different payees.

**Summary of Claimed Subject Matter as to Independent Claim 42**

Independent Claim 42 is described in the specification on page 38, lines 3-18 and Fig. 3, reference numbers 112, 120 and 150, and on page 49, line 11 through page 50, line 2, and Fig. 7 of the drawings.

As recited in claim 42, a bill paying method involves storing information for payees, and payors, including parameters established for enabling transfers of funds from a payee to a payor by a funds transfer. Funds transfers are generated based on bill data, and the stored information. The bill data from a plurality of payees is received and is presented on an interactive device.



**Grounds of Rejection**

Claims 25-38, 40-55, 57 and 58 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Kight, U.S. Patent No. 5,383,113, in view of Pickering, U.S. Patent No. 5,483,445, as cited in the Final Office Action.

**Argument**

Applicant submits that the Examiner has failed to present a prima facie case of obviousness of the rejected claims based on the cited Kight and Pickering references.

Furthermore, Applicant submits that the Examiner has improperly applied the standard of obviousness in asserting the combination of the cited Kight and Pickering references.

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